International Seabed Authority ISBA/10/A/2–ISBA/10/C/2

Assembly
Council

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Supplementary Agreement between the International Seabed Authority and the Government of Jamaica regarding the headquarters of the International Seabed Authority and the use of the Jamaica Conference Centre complex

Note by the Secretary-General

1. Article 156, paragraph 4, of the United Nations Convention on the Law of the Sea provides that the seat of the International Seabed Authority shall be in Jamaica. When the Secretariat of the Authority became operational in 1996, it took over the premises formerly occupied by the Kingston Office for the Law of the Sea, established by the United Nations to service the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea. For that purpose, there had been in effect a standard agreement between the Government of Jamaica and the United Nations relating to the use of the premises.

2. At its 8th meeting, on 11 November 1996, the Council formally requested the Secretary-General to negotiate with the Government of Jamaica an agreement regarding the headquarters of the Authority, taking into account the draft of such an agreement prepared by the Preparatory Commission.[1] Following negotiations between the parties, the Headquarters Agreement between the International Seabed Authority and the Government of Jamaica was approved by the Assembly at its 67th meeting, on 25 August 1999.[2] At that time, the Assembly also accepted the offer of the Government of Jamaica for the use of the Authority's existing premises (i.e. those formerly occupied by the Kingston Office for the Law of the Sea) for the use and occupation of the Authority as its permanent headquarters and requested the Secretary-General to negotiate with the Government of Jamaica, pursuant to article 2 of the Headquarters Agreement, a supplementary agreement concerning the use and occupation of the permanent headquarters.[3]

3. In October 1999, the Secretary-General invited the Government of Jamaica to commence as soon as possible the negotiations on the supplementary agreement. However, owing to the need to carry out an internal transfer of the title to the proposed headquarters building, it was not until May 2000 that a preliminary round

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of discussions could take place between the Authority and the Government. Regrettably, it was not possible to reach an early agreement on the parameters of the proposed supplementary agreement and a number of problems emerged which made progress difficult to achieve. Background information on the issues and a complete synopsis of the negotiations may be found in the successive annual reports of the Secretary-General and it is not necessary to rehearse the facts again in the present document.[4] At the ninth session, in 2003, the Assembly once again expressed its concern about the long delay in completing the supplementary agreement and urged the Secretary-General and the Government of Jamaica to continue their efforts to conclude an agreement as soon as possible.[5]

4. In accordance with the injunction of the Assembly, in September 2003, the Secretary-General and the Government of Jamaica renewed their efforts to reach agreement on the technical aspects of the supplementary agreement. Following detailed, but constructive, negotiations, it was possible to reach agreement on the terms of the agreement by November 2003. Subsequently, at a ceremony at the headquarters of the Authority in Kingston on 17 December 2003, the Agreement was signed by the Secretary-General, on behalf of the Authority, and by the Hon. K. D. Knight, Minister of Foreign Affairs and Foreign Trade, on behalf of the Government of Jamaica. In accordance with its article 19, the Supplementary Agreement shall be applied provisionally upon signature and will enter into force on its approval by the Assembly of the Authority and by the Government of Jamaica.

5. The Supplementary Agreement, the text of which appears in the annex to the present document, contains the following key elements:

(a) The Authority is granted a defined space within the headquarters building rent free for a period of 99 years;

(b) The Authority will be financially responsible only for the space it actually occupies in the headquarters building, with the proviso that additional space will be made available to it in the future if needed;

(c) The Authority will contribute a monthly maintenance contribution fixed at US$ 4,000 towards the use and occupation of its premises. This payment covers basic utility costs, building management and maintenance services, maintenance of fire alarms, elevators, air conditioning and normal wear and tear. The maintenance contribution may be reviewed by mutual agreement three years from the date of the Agreement and every two years thereafter;

(d) The Authority shall be directly responsible for the payment of electricity consumption within its premises and will contribute a pro rata share of the common area electricity;

(e) The Authority shall have guaranteed use of the Jamaica Conference Centre and its facilities at rates no less favourable than those applied to the Government, its agencies and other local organizations and bodies.

6. The financial implications of the Supplementary Agreement will be considered by the Finance Committee in the context of the proposed budget of the Authority for the financial period 2005-2006. Overall, however, it is expected that there would be no additional cost to the Authority as a result of the Agreement. Further, because the Authority has agreed to pay direct the costs of electricity consumption, which is the

largest single cost item, one of the key objectives of ensuring transparency in the attribution of costs has been attained.

7. The Assembly is invited to approve the Supplementary Agreement as contained in the annex to the present document.

Notes

[1] LOS/PCN/WP.47/Rev.2.

[2] ISBA/5/A/11, para. 1, and annex.

[3] Ibid., paras. 2 and 4.

[4] ISBA/7/A/2, para. 10; ISBA/8/A/5; paras. 11-21; ISBA/9/A/3, paras. 11-14.

[5] ISBA/9/A/9, para. 8.

Annex

Supplementary Agreement between the International Seabed Authority and the Government of Jamaica regarding the headquarters of the International Seabed Authority and the use of the Jamaica Conference Centre complex

In pursuance of the Agreement between the International Seabed Authority (hereinafter called "the Authority") and the Government of Jamaica (hereinafter called "the Government") regarding the headquarters of the Authority done at Kingston, Jamaica, on the 26th day of August 1999 (hereinafter called "the Headquarters Agreement");

Considering that, pursuant to article 2 of the Headquarters Agreement, the Government undertook to grant to the Authority, for the permanent use and occupation of the Authority, such area and facilities as may be specified in supplementary agreements concluded for the purpose;

Desiring therefore to conclude such an agreement, supplementing the Headquarters Agreement, in order to regulate the terms under which the Authority may use and occupy its headquarters and setting out the terms and conditions under which the Authority shall have the use of facilities of the Jamaica Conference Centre for the purpose of its meetings;

Now therefore, the Parties hereto agree as follows:

Article 1
Use of terms

1. The terms used in this Agreement shall have the same meaning as those in the Headquarters Agreement.

2. This Agreement includes the annexes to this Agreement, which shall be an integral part hereof.

Article 2
Purpose and scope

This Agreement serves to set out the terms and conditions governing the use and occupancy by the Authority of the premises granted by the Government as the permanent headquarters of the Authority in Kingston, Jamaica, and the use of the Jamaica Conference Centre by the Authority for the purposes of its activities.

Article 3
Grant of premises

The Government hereby grants to the Authority for a period of 99 years free of rent and all other charges except as provided for in this Agreement all the premises more particularly described in annex I hereto (hereinafter referred to as "the Premises") for use as the permanent headquarters of the Authority in Kingston, Jamaica, together with a right of access to and from the Premises, the right in common with other tenants of the building within which the Premises are located to the use of common facilities, elevators, fire systems, air conditioning, parking lot

and other common areas of such building. In the event that additional space in the building within which the Premises are located is required for use and occupation by the Authority, annex I shall be amended and the provisions of this Agreement shall apply mutatis mutandis thereto.

Article 4
Use and occupancy of the Premises

1. The Premises shall be used and occupied by the Authority as its permanent headquarters in Kingston, Jamaica.

2. The Authority shall have the right to quiet and peaceful occupancy and use of the Premises, without undue interruptions and disturbances, for the conduct of its official activities. The Government shall make every effort to ensure that the use of the immediate vicinity of the Premises does not obstruct the usefulness of the Premises to the Authority.

3. The Authority shall take all necessary steps to ensure that the Premises are not used for purposes other than those for which it is intended and to ensure that the land and buildings in its vicinity are not unreasonably obstructed.

Article 5
Operating costs of the Premises

1. During the term herein granted, the Authority shall contribute a proportionate amount, commensurate with the area occupied by the Authority, of the costs incurred by the Government in respect of the maintenance and normal wear and tear of the building within which the Premises are located, as shown in annex II hereto (hereinafter called "the Monthly Maintenance Contribution").

2. The Monthly Maintenance Contribution shall be payable at the end of each month and shall constitute the sole contribution by the Authority towards the costs of its use and occupation of the Premises. The Authority shall be directly responsible for the payment of electricity consumption in the Premises occupied by the Authority.

3. The Monthly Maintenance Contribution shall be reviewed three years from the effective date of this Agreement and every two years thereafter. In the light of the review, the Government and the Authority may make such adjustments to annex II as may be necessary by mutual agreement. If there are special circumstances which make a review necessary before the expiration of two years from the date of the last review, either Party may request a review of the Monthly Maintenance Contribution at any time in accordance with the provisions of article 17.

Article 6
Alterations, fixtures, installations and maintenance of the Premises

1. The Government shall, at its expense, maintain the Premises, the lands and building within which the Premises are located, in good condition of repair and maintenance, and shall keep and maintain the exterior of said lands and buildings and the common areas, including elevators, fire protection systems and air conditioning, in good, attractive and operating condition.

2. The Government shall, at its expense, provide the Premises with water, electricity and any other services and facilities required by the Authority to carry out its functions. The elevator, air conditioning and cleaning services shall be provided as indicated in annex II.

3. The Government shall be responsible, at its own expense, for restoration, renovation and major repairs or extensive maintenance to the Premises including structural repairs and replacements to the buildings, installations, fixtures and equipment, such as building control equipment, air-conditioning equipment, pipes, plumbing and electrical wiring.

4. The Government shall, if so requested by the Secretary-General, facilitate the installation of equipment referred to in article 10, paragraph 6, of the Headquarters Agreement in order for the Authority to operate its own telecommunications system.

5. The Authority will report any necessary repairs that are the responsibility of the Government to the competent authority, who shall, on behalf of the Government, take prompt and effective action in response.

6. The Authority may, upon notice to the competent authorities, at its own expense, attach fixtures and make alterations and installations on the Premises for its own purposes. In any case involving structural alterations the Authority shall do so with the consent of the competent authorities and taking into consideration the building regulations of the host country.

7. The equipment, fixtures or installations erected or installed by the Authority, except for immovable fixtures or installations, shall not become part of the realty and may be removed by the Authority at any time or upon expiration of this Agreement or any renewal thereof, except for those improvements which the Authority shall, upon request by the Government giving thirty days' notice to the Authority, agree to sell to the Government; in which case the Government shall reimburse the Authority the cost thereof at the prevailing book value. Provided that upon removal of the equipment, fixtures or installations erected by the Authority, the Authority shall, if requested by the Government, restore the Premises to the same condition as that existing at the time of taking possession of the same, reasonable and ordinary wear and tear and damage by the elements or by circumstances over which the Authority has no control excepted.

Article 7
Damage to or destruction of the Premises

1. The Authority shall not be responsible for restoration or reconstruction of the Premises in case of damage or destruction by fire or any other external cause, including force majeure.

2. In the event of total destruction of the Premises or the building of which the Premises form a part due to fire, force majeure or any other cause, this Agreement, including the payment obligations assumed by the Authority hereunder, shall immediately terminate. In such event, the Government shall provide the Authority with other suitable premises.

3. In the event of partial destruction of the Premises or the building of which the Premises form a part, the Authority shall have the option to continue with the Agreement if the Government within 60 days of such occurrence satisfies the

Authority that adequate measures have been taken or are proposed to restore the Premises within a reasonable time. Should the Authority elect to remain on Premises rendered partially untenable, it shall have the right to a proportionate rebate or reduction of the payments made or due to the Government pursuant to this Agreement.

Article 8
Access to Premises

Without prejudice to article 5 of the Headquarters Agreement, the Authority shall, upon request, enable duly authorized representatives of the competent authorities of the Government to enter the Premises to inspect the buildings, facilities and installations at the Premises under conditions which shall not unreasonably disturb the carrying out of the functions of the Authority, with due notice given and subject to prior approval of the Secretary-General.

Article 9
Use of the Centre

1. The Government hereby agrees to make available to the Authority whenever necessary and upon request in writing at least 30 days in advance, the Jamaica Conference Centre (hereafter called "the Centre"), for the purpose of holding meetings, conferences, consultations, scheduled programmes and any other activities related to the functions of the Authority.

2. Rates applied to the Authority for its use of the Centre shall not be less favourable than those applicable to the Government, its agencies or any other local organizations or bodies.

Article 10
Facilities, services and maintenance in the Centre

1. For purpose of giving effect to the provisions of paragraph 1 of article 9 hereof, the Government shall during the user period provide to the Authority the following facilities:

(a) Full and exclusive use of the conference rooms, dining facilities and other amenities;

(b) Post office, telephone and fax facilities;

(c) Parking facilities.

2. During the user period, the Government shall maintain the facilities described in paragraph 1 in good order and condition and the Government shall provide:

(a) Maintenance services, including ventilation and air conditioning, in respect of the Centre;

(b) All utilities and other services including water, electricity, air conditioning and cooking gas;

(c) Maintenance of the fire equipment and fire detection system;

(d) Maintenance and repair of kitchen equipment;

(e) Maintenance and repair of the electronic equipment;

(f) Maintenance and repair of air-conditioning equipment;

(g) Janitorial services;

(h) Security services;

(i) Parking facilities;

(j) Insurance coverage as provided in article 11.

Article 11
Insurance

1. During the term of this Agreement or any extension thereof, the Government shall in respect of the Premises and, during the user period, the Centre, procure and maintain at its expense fire insurance with extended coverage endorsement; provided, however, that the Government shall not be obligated to insure the fixtures, furnishings and other equipment owned and installed in the Premises by the Authority.

2. The Government shall carry adequate public liability insurance covering its ownership of the Centre and the Premises, and shall carry adequate public liability insurance covering the lands and buildings, parking lot, sidewalk and other common areas.

3. The Government shall provide the Authority with proof that the insurance coverage provided for in this article has been obtained.

4. In case of loss or damage or destruction of the Premises or the Centre by fire or any other cause whatsoever, the Government or its insurer, agents or assignees shall not look to the Authority or its agents or employees for reimbursement who shall not have any liability or financial responsibility in this regard, except where attributable to gross negligence or wilful default of the Authority.

5. During the term of this Agreement or any extension thereof, the Authority shall carry adequate insurance to cover its liability as provided in article 44 of the Headquarters Agreement.

Article 12
Interruption or curtailment of services

1. In the event of interruption or curtailment, whether due to strikes, mechanical difficulties or other causes, of any services maintained or required to be maintained in the Premises or the Centre, the Government undertakes to take such measures as may be necessary to restore the services without undue delay. The Authority shall have a right to a proportionate abatement or reduction of the use and occupancy costs herein provided during the period of such interruptions or curtailment.

2. The Authority shall notify the Government of any such interruption or curtailment and the Parties shall consult with a view to determining the extent of the interruption or curtailment and the steps required to restore the services.

Article 13
Privileges and immunities

Nothing contained in this Agreement shall be construed as a derogation from or a waiver, express or implied, of any of the privileges and immunities of the Authority. Furthermore, this Agreement shall be subject to and shall be construed and applied in a manner consistent with the Headquarters Agreement.

Article 14
Responsibility for the obligations on the competent authority

1. Whenever this Agreement imposes obligations on the competent authorities, the responsibility for the fulfilment of such obligations shall lie with the Government.

2. Communications concerning the Premises and use of the Centre will be between the Authority and the Government. Communications may be addressed to the Ministry of Foreign Affairs and Foreign Trade, including requests regarding services or equipment, repairs and maintenance. Such communications and requests shall be deemed to have been communicated to the Government.

Article 15
Consultations

At the request of either the Government or the Authority, consultations may be held on any matter related to the use and management of the Premises or the Centre that may affect the interest of the Authority, with a view to reaching a mutually satisfactory agreement.

Article 16
Settlement of disputes

Any dispute between the Government and the Authority concerning the interpretation or application of this Agreement shall be settled in accordance with article 48, paragraph 2, of the Headquarters Agreement.

Article 17
Revision and amendment

This Agreement, including the annexes, may be revised or amended at any time upon the request of either of the Parties, subject to mutual consultation and mutual consent to any such revisions or amendments.

Article 18
Termination

1. This Agreement may be terminated by mutual consent by either party giving 90 days' advance notice of its intention to terminate to the other. Such consent shall not be unreasonably withheld. In such a case, either party may request consultations.

2. Upon termination of this Agreement, the Authority shall surrender the Premises to the Government in good condition and repair, ordinary wear and tear, the elements, force majeure and loss through fire and other insurable risks excepted.

Article 19
Entry into force

1. This Agreement shall enter into force on its approval by the Assembly of the Authority and the Government of Jamaica.

2. This Agreement shall be applied provisionally by the Authority and the Government upon signature by the Secretary-General of the Authority and on behalf of the Government of Jamaica.

IN WITNESS WHEREOF the undersigned, being duly authorized representatives of the International Seabed Authority and the Government of Jamaica, have signed the present Agreement.

SIGNED this seventeenth day of December 2003 (two thousand and three) at Kingston, Jamaica, in two originals in the English language.

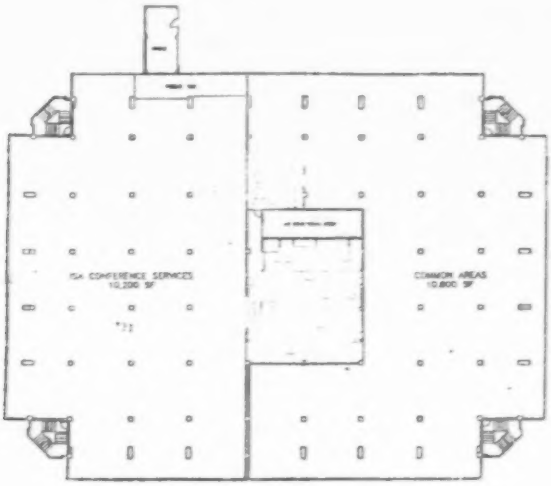
FOR THE INTERNATIONAL SEABED AUTHORITY:

[*Signature*] Satya N. **Nandan**
Secretary-General

FOR THE GOVERNMENT OF JAMAICA:

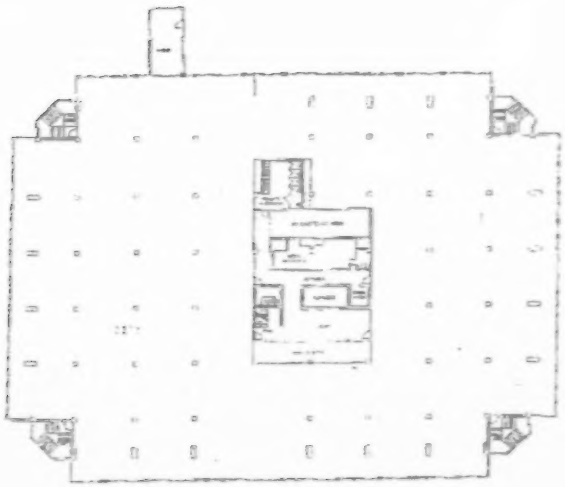
[*Signature*] Rt. Hon. K. D. **Knight**
Minister of Foreign Affairs and Foreign Trade

Annex I to the Supplementary Agreement



FIRST FLOOR PLAN

INTERNATIONAL SEABED AUTHORITY
BLOCK 11 BUILDING
14 - 20 PORT ROYAL STREET
KINGSTON



SECOND FLOOR PLAN

INTERNATIONAL SEABED AUTHORITY
BLOCK 11 BUILDING
14 - 20 PORT ROYAL STREET
KINGSTON

Annex II to the Supplementary Agreement

1. The Monthly Maintenance Contribution shall be fixed at US$ 4,000 and shall be in respect of the following:

(a) Utility costs, including water and sewage;

(b) Building management and maintenance service, including general cleaning, pest control, garbage disposal, labour, materials and supplies;

(c) Maintenance and repair of the fire equipment and fire detection system;

(d) Maintenance and repair of elevators;

(e) Maintenance and repair of generator;

(f) Maintenance and repair of air-conditioning system;

(g) Normal wear and tear of the premises.

2. In addition, the Authority shall pay, on a monthly basis, the actual costs of electricity usage for the common facilities and common areas of the building within which the Premises are located, apportioned according to the actual areas occupied by the Authority and described in annex 1. As at the date of signature of this Agreement, it is agreed that the apportionment to the Authority shall be 31.5 per cent.